

## **REMARKS**

Claims 42-82 are pending in the present application. The outstanding claim rejections are addressed below in the order they were presented in the Office Action.

### ***Claim Rejections – 35 U.S.C. § 103***

**Claims 42-50, 52, 53, 57, 61-66, 71-75, 78, and 82,** of which claims 42, 61, and 71 are the independent claims, currently stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Pat. No. 5,619,247 (“Russo”) in view of U.S. Pat. No. 6,243,350 (“Knight”) and U.S. Pat. No. 4,766,581 (“Korn”).

**Claim 42** recites in part:

counting with the reader device how many times a video segment of the plurality of video segments is played, said counting enabled via a controller of the reader device, wherein said controller is configured to instruct a servo to move to tracks of said multilayer storage medium containing video segments to be viewed.

The Examiner admits that Russo “lacks the step of counting how many times a video segment of the plurality of the video segments is played, the counting enabled via the reader device instructing servo to move to tracks of the storage medium containing the segments to be viewed.” (Office Action of 11/1/07, p. 4.) The Examiner stated that “Knight also discloses that prior art techniques for reading tracks include ‘conventional focusing servo system’, for reading data on disk, that is not needed when using the flying head technique.” (Id.) The Examiner wrote that “Knight is evidence to one of ordinary skill in the art that the method of a controller ‘instructing servo to move to tracks’ of the storage medium were well known in the art and that conventional focusing servo system can be substituted for flying head technique for reading tracks on an optical disk.” (Id.)

Applicants contend that the cited disclosure from Knight is not relevant to the quoted claim recitation. Knight describes the “flying” head as a read/write head “which is suspended over the optical medium by an air-bearing surface in a near-field recording configuration.” (Knight, col. 2, lines 30-32.) Knight describes the function of the flying head:

the automatic optimization and maintenance *of focus* under the preferred near-field condition. This is accomplished, at least in part, by the use of the air-bearing surface to suspend the flying head over the surface of the optical medium by a fraction of a wavelength at a prespecified height. Therefore, a conventional focusing servo system may not be required.

(Knight, col. 2, lines 44-50, emphasis added.) Both flying heads and focusing servo systems serve to maintain focus by maintaining a distance between the head and the medium. They are not relevant to the function of instructing a servo *to move to tracks* of a multilayer storage medium containing video segments to be viewed, nor to *enabling counting* how many times a video segment is played via a controller configured to so instruct a servo. No connection between a controller configured to instruct a servo to move to tracks containing a video segment and counting how many times the video segment is played is suggested by the Knight.

The Examiner also cited Korn as allegedly teaching “a method of tracking counts for requested video program selections” and stated that: “Korn is therefore evidence to one of ordinary skill in the art of counting the number of times a video segment is played/requested, the counting enabled via a controller of the media reader device.” The Examiner failed to provide specific citations to portions of Korn and Applicants are unable to discern a suggestion of counting enabled via a controller configured to instruct a servo to move to tracks of a multilayer storage medium having a plurality of video segments.

Korn describes a Video Jukebox System wherein user selection will cause a video disk containing a desired selection to be loaded in a reader. (Korn column 5, lines 50-52.) Korn describes counting how many times a selection is played as follows:

But if the selection is valid, microcomputer 164 will enter it into the playing queue and will increment the stored count, indicating how many times that selection has been requested or paid for.

(Korn, column 16, line 67 - column 17, line 3.) This passage indicates that a count is incremented when a music selection is queued, not when controller instructs a servo to move to tracks of a multilayer storage medium. Applicants are unable to discern any description in Korn suggesting that the microcomputer 164 is a controller configured to instruct a servo to

move to tracks of a multilayer storage medium having a plurality of video segments stored thereon.

For at least the reasons explained above, Applicants respectfully submit that the cited references, either alone or in combination, do not teach the quoted recitation of claim 42 and, therefore, claim 42 is patentably defined over the cited art. Accordingly, Applicants respectfully request that the rejection of claim 42 be withdrawn.

Independent **claims 61 and 71** contain recitations similar to the quoted recitation of claim 42 above. The remarks presented above with respect to the patentability of claim 42 apply as well to independent claims 61 and 71. Thus, for at least the reasons presented above with respect to claim 42, Applicants respectfully submit that claims 61 and 71 are patentably defined over the cited art. Accordingly, Applicants respectfully request that the rejection of claims 61 and 71 be reconsidered and withdrawn.

**Claims 43-50, 53, and 57** depend, directly or indirectly, from claim 42. **Claims 62 – 66** depend, directly or indirectly, from claim 61. **Claims 72-75, 78, and 82** depend, directly or indirectly, from claim 71. Applicants respectfully submit that for at least the reasons explained above with respect to independent claims 42, 61, and 71, these pending dependent claims are patentably defined over the cited art and, accordingly, respectfully request that the rejection of these dependent claims be withdrawn.

**Claims 54-56, 59-60, 67-68, 70, 76, 79, 80, and 81** currently stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Russo in view of Knight and Korn and further in view of WO 01/54410 A2 (“Braitberg”). Claims 54-56 and 59-60 each depend, directly or indirectly, from one of claims 42, 61, and 71. Applicants respectfully submit that for at least the reasons explained above with respect to independent claims 42, 61, and 71, these dependent claims are patentably defined over the cited art and, accordingly, respectfully request that the rejection of these claims be withdrawn.

Applicants direct the following additional remarks to **claim 54** which recites, in part, “when the reader device transmits its first identifier to the central computer, the reader device also transmitting a second unique identifier to the central computer.” The Examiner cited four passages from Braitberg as disclosing the quoted claim recitation. (Office Action of 11/1/2007, p. 8.) Applicants are unable to discern a suggestion of transmitting a second unique identifier to a central computer in the cited passages. Braitberg describes “active

codes stored on the media are used in conjunction with a media serial number or other media identifier.” (Braitberg, p. 4, lines 13-14.) Braitberg teaches that:

a customer who wishes to enable currently-protected content will make a payment, or a commitment for payment, such as in a remote fashion, e.g., over the Internet, and will *receive* (preferably electronically and preferably in a fashion transparent and substantially unknown to the customer) a code, calculated to work in conjunction with the media identifier so as to enable the desired content.

(Braitberg, p. 5, lines 4-8, emphasis added.) The code described above is *received* from a central system, not “transmitted to a central computer” as recited in claim 54.

Braitberg discloses a “media identifier in some embodiments is preferably unique to each optical disk or other media” (Braitberg, p. 8, lines 33-34) and that “it is useful for enablement system to have access to information related to serial numbers, media information and the like. For example, it may be useful for an enablement facility to receive information specifying a range of serial numbers which was used for blank media and another range of serial numbers which [w]as used for content-bearing media.” (Braitberg, p. 9, lines 4-8.) The cited passages of Braitberg do not describe a “reader device also transmitting a second unique identifier to the central computer” as recited in claim 54.

For at least the reasons presented here, as well as the reasons explained above with respect to claim 42 from which claim 54 indirectly depends, Applicants respectfully submit that the cited references do not teach the recitations of claim 54 and, therefore claim 54 is patentably defined over the cited art. Accordingly, Applicants respectfully request that the rejection of claim 54 be withdrawn.

**Claim 51** currently stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Russo in view of Knight and Korn and further in view of U.S. Pub. No. 2004/0083492 (“Goode”). Claim 51 depends indirectly from claim 42. Applicants respectfully submit that for at least the reasons explained above with respect to independent claim 42, dependent claim 51 is patentably defined over the cited art and, accordingly, respectfully request that the rejection of this dependent claim be withdrawn.

**Claims 58 and 77** currently stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Russo in view of Knight and Korn and further in view of U.S. Pat. No. 6,438,751 (“Voyticky”). Claim 58 depends indirectly from claim 42. Claim 77 depends from

**DOCKET NO.:** \*\*OO-0069  
**Application No.:** 09/781,680  
**Office Action Dated:** November 1, 2007

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claim 71 Applicants respectfully submit that for at least the reasons explained above with respect to independent claims 42 and 71, dependent claims 58 and 77 are patentably defined over the cited art and, accordingly, respectfully request that the rejection of these dependent claims be withdrawn.

**Claim 69** currently stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Russo in view of Knight, Korn, and Braitberg and further in view Voyticky. Claim 69 depends indirectly from claim 61. Applicants respectfully submit that for at least the reasons explained above with respect to independent claim 61, dependent claim 69 is patentably defined over the cited art and, accordingly, respectfully request that the rejection of this dependent claim be withdrawn.

***Conclusion***

As explained above, Applicants submit that claims 42-82, which currently stand rejected in the Application, are patentably defined over the cited art. The Examiner is respectfully urged to reconsider the Application. Favorable consideration and passage to issue of the application is earnestly solicited. If the Examiner should, however, find the claims as presented herein are not allowable for any reason or if the Examiner has any questions, comments, or suggestions that would expedite the prosecution of the present case, the Applicants undersigned representative would sincerely welcome a telephone conference at (206) 903-2475.

Date: March 26, 2008

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